

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DWAYNE EDWARD ABRAHAM,
Plaintiff,

No. CV 05-1943-PK
OPINION & ORDER

v.

DAN JOHNSON, et al.,
Defendants.

MOSMAN, J.,

On January 10, 2007, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#29) in the above-captioned case recommending defendants' motion to dismiss (#18) be granted due to Mr. Abraham's failure to exhaust administrative remedies. Mr. Abraham filed objections to the F&R (#30) on January 26, 2007. Additionally, he filed motion to hold the case in abeyance (#31) on March 14, 2007.

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The district court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. Where objections have been made, I conduct a *de novo* review. 28 U.S.C. § 636(b)(1)(C). However, I am not required to

review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

I DENY Mr. Johnson's motion to hold the case in abeyance (#31). Further, upon review of the F&R, I agree with Judge Papak's recommendation to GRANT defendants' motion (#18) and dismiss this case without prejudice. I ADOPT the F&R as my own opinion.

IT IS SO ORDERED.

DATED this 17th day of May, 2007.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court